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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/595,877	05/17/2006	Justus Petersson	P18221-US1	8392	
27045	7590	05/04/2010	EXAMINER		
ERICSSON INC.		PHAM, TIMOTHY X			
6300 LEGACY DRIVE		ART UNIT		PAPER NUMBER	
M/S EVR 1-C-11		2617			
PLANO, TX 75024					
		NOTIFICATION DATE		DELIVERY MODE	
		05/04/2010		ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/595,877	PETERSSON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	TIMOTHY PHAM	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 24 March 2010.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-10 and 12-24 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-10, 12-24 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/24/2010 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-10, 12-24 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8, 10, 12-19, and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al. (hereinafter “Clark”; US 2005/0086062; newly cited) in view of Vasudevan et al. (hereinafter “Vasudevan”; US 2002/0131496; newly cited).

Regarding claims 1 and 12, Clark discloses a method and a telecommunications charging system for determining a charging rate related to a data bit transfer session for a mobile client communicating with a radio resource managing unit comprising the steps of:

dynamically determining a bandwidth on the wireless communication link available to and allowed to be used by the bit transfer session for said mobile client (paragraphs [0002], [0013]-[0014], [0032], e.g., A bandwidth-on-demand system allows a user to select the capacity (bit-rate) he requires for a particular application, and pay a tariff according to the network capacity used);

a charging logic receiving information from the radio resource managing unit about the bandwidth on the wireless communication link that the bit transfer session is available to use (paragraphs [0018]-[0019], [0037]-[0038], e.g., an application server controlling use of a specified application also records calls made on the network using that application, and instructs a billing engine which connections made use of that application, and wherein such calls are charged by the billing engine at different rates according to whether those connections make use of that application).

Clark fails to specifically disclose said charging logic applying a particular charging rate for said mobile client based on said received bandwidth information for said data bit transfer session.

However, Vasudevan discloses charging logic applying a particular charging rate for said mobile client based on said received bandwidth information for said data bit transfer session (paragraph [0030], e.g., if the available bandwidth of the network and/or client device, is not large enough to handle a desired rate or delivery cost specified by the user, e.g., in times of heavy network traffic, the system dynamically adjusts the video stream bit rate so as to fully utilize the available bandwidth as much as possible, with minimal loss of content).

Therefore, taking the teachings of Clark in combination of Vasudevan as a whole, it would have been obvious to one having ordinary skill in the art at the time of the invention by applicant to have a charging logic applying a particular charging rate for said mobile client based on said received bandwidth information for said data bit transfer session in order to provide efficiency costs to consumers.

Regarding claims 2 and 13, Clark in combination with Vasudevan discloses the method and the telecommunications charging system for determining said charging rate according to claims 1 and 12 respectively, further comprising the charging logic receiving said information from the radio resource managing unit each time the bandwidth on the wireless link available to the bit transfer session has changed (Clark: paragraphs [0018]-[0019], [0037]-[0038]).

Regarding claims 3 and 14, Clark in combination with Vasudevan discloses the method and the telecommunications charging system for determining said charging rate according to claims 1 and 12 respectively, further comprising the charging logic receiving said information from the radio resource managing unit at predetermined intervals (Vasudevan: paragraph [0030], e.g., The adaptive transcoder 320 then sends each client 250a . . . 250n a specific bit-rate data stream that corresponds with an amount of available bandwidth on a particular network during a given time interval).

Therefore, taking the teachings of Clark in combination of Vasudevan as a whole, it would have been obvious to one having ordinary skill in the art at the time of the invention by applicant to have the charging logic receiving said information from the radio resource managing unit at predetermined intervals for advantages of providing efficiency costs to consumers.

Regarding claims 4 and 15, Clark in combination with Vasudevan discloses the method and the telecommunications charging system for determining said charging rate according to claims 1 and 12 respectively, further comprising the charging logic receiving said information from the radio resource managing unit each time the bandwidth on the wireless link available to the bit transfer session has changed and the bandwidth change has been applied to the session for a predetermined period of time (Vasudevan: paragraphs [0003], [0030], e.g., the specific bit-rate transmitted by the adaptive transcoder 320 will correspond to a specific bit rate or delivery cost requested by one or more of the clients 250 ).

Therefore, taking the teachings of Clark in combination of Vasudevan as a whole, it would have been obvious to one having ordinary skill in the art at the time of the invention by applicant to have the charging logic receiving said information from the radio resource managing unit each time the bandwidth on the wireless link available to the bit transfer session has changed and the bandwidth change has been applied to the session for a predetermined period of time for advantages of providing efficiency costs to consumers.

Regarding claims 5 and 16, Clark in combination with Vasudevan discloses the method and the telecommunications charging system for determining said charging rate according to claims 1 and 12 respectively, further comprising the charging logic receiving said information from the radio resource managing unit at intervals which depend on a service type of the bit transfer session (Vasudevan: paragraphs [0003], [0006], [0008], [0030]).

Therefore, taking the teachings of Clark in combination of Vasudevan as a whole, it would have been obvious to one having ordinary skill in the art at the time of the invention by applicant to have the charging logic receiving said information from the radio resource managing

unit at intervals which depend on a service type of the bit transfer session for advantages of providing efficiency costs to consumers.

Regarding claims 6 and 17, Clark in combination with Vasudevan discloses the method and the telecommunications charging system for determining said charging rate according to claims 1 and 12 respectively, further comprising the charging logic receiving said information from the radio resource managing unit via an application server which relays said information from the radio resource managing unit to the charging logic (Clark: paragraphs [0002], [0013]-[0014], [0032]).

Regarding claims 7 and 18, Clark in combination with Vasudevan discloses the method and the telecommunications charging system for determining said charging rate according to claims 1 and 12 respectively, further comprising the charging logic receiving said information from the radio resource managing unit via a mobile proxy which relays said information from the radio resource managing unit to the charging logic (Clark: paragraphs [0003], [0010], [0012]).

Regarding claims 8 and 19, Clark in combination with Vasudevan discloses the method and the telecommunications charging system for determining said charging rate according to claims 1 and 12 respectively, further comprising the charging logic adapting the charging rate related to the bit transfer session such that the session is charged according to a first charging rate associated with a first charging class when the bandwidth on the wireless link available to the bit transfer session is within a first predetermined interval and according to a second charging rate associated with a second charging class when the bandwidth on the wireless link available to the bit transfer session is within a second predetermined interval (Clark: paragraphs [0014], [0018], [0038], e.g., application server controlling use of a specified application also records

calls made on the network using that application, and instructs a billing engine which connections made use of that application, and wherein such calls are charged by the billing engine at different rates according to whether those connections make use of that application).

Regarding claims 10 and 24, Clark in combination with Vasudevan discloses the method and the telecommunications charging system for determining said charging rate according to claims 1 and 12 respectively, further comprising the charging logic adapting the charging rate related to the bit transfer session based on said received information from the radio resource managing unit such that the impact of said received information from the radio resource managing unit on the charging rate of the bit transfer session depends on a service type of the bit transfer session (Clark: paragraphs [0018]-[0019], [0037]-[0038]).

Regarding claim 21, Clark in combination with Vasudevan discloses the telecommunications charging system for determining said charging rate according to claim 12 is incorporated in a proxy node which further incorporates a mobile proxy (Clark: paragraphs [0003], [0010], [0012]).

Regarding claim 22, Clark in combination with Vasudevan discloses the telecommunications charging system for determining said charging rate according to claim 12 is incorporated in an application/service node which further incorporates an application logic (Clark: paragraphs [0003], [0010], [0012]).

Regarding claim 23, Clark in combination with Vasudevan discloses the telecommunications charging system for determining said charging rate according to claim 12 is incorporated in a charging node, which is a node dedicated to charging functionality (Clark: paragraphs [0003], [0010], [0012]).

5. Claims 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark in combination with Vasudevan in view of Sawyer (US Patent No. 5,828,737; Cited in PTO-892 Part of Paper No. 20091119).

Regarding claims 9 and 20, Clark in combination with Vasudevan discloses the method and the telecommunications charging system for determining said charging rate according to claims 1 and 12 respectively, fails to specifically disclose the charging logic determining that the charging rate related to the bit transfer session should be zero when the bandwidth on the wireless link available to the bit transfer session is below a predetermined threshold level.

However, Sawyer discloses the charging logic determining that the charging rate related to the bit transfer session should be zero when the bandwidth on the wireless link available to the bit transfer session is below a predetermined threshold level (col. 6, lines 19-30).

Therefore, taking the teachings of Clark in combination with Vasudevan and Sawyer as a whole, it would have been obvious to one having ordinary skill in the art at the time of the invention by applicant to determine the charging rate related to the bit transfer session should be zero when the bandwidth on the wireless link available to the bit transfer session is below a predetermined threshold level for advantages of improving billing system by providing efficiency costs to consumers.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMOTHY PHAM whose telephone number is (571)270-7115. The examiner can normally be reached on Monday-Friday; 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent P. Harper can be reached on 571-272-7605. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ Timothy Pham/  
Examiner, Art Unit 2617

/VINCENT P. HARPER/  
Supervisory Patent Examiner, Art Unit  
2617